

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-30071-2023 in/&
CRM-M-36164-2022
Date of decision: 07.08.2023

Kashal Kumari @ Pinki

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sarfaraj Hussain, Advocate for
Mr. Bhrigu Agnihotri, Advocate for the petitioner

Mr. H.S. Sullar, Sr. DAG Punjab

AMAN CHAUDHARY. J.

CRM-30071-2023

For the reasons mentioned in the application, same stands allowed.

Main case is preponed and taken on board today itself.

CRM-M-36164-2022

1. Prayer in the present petition filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.0031 dated 25.02.2022, registered under Sections 18 and 29 of NDPS Act, at Police Station Sadar Khanna, District Khanna, Punjab.
2. Learned counsel contends that the petitioner is in custody for 1 year and about 5 months. Her name surfaced based on a disclosure statement of co-accused Sonu Shah and Rinki Kumari Tirki, from whom 4 kg of opium, was recovered when they were travelling in a vehicle. No recovery has been effected

from her. The brother of the petitioner has expired on 01.05.2023 and subsequently, even her father passed away on 01.07.2023. Charges have been framed on 07.07.2022, however, out of 22 prosecution witnesses, none has been examined. The petitioner is not involved in any other case. Reliance is placed on the order passed by Co-ordinate Bench of this Court in **Sandeep Kumar @ Gogi vs. State of Haryana** in CRM-M-24505-2022 decided on 07.12.2022, wherein also the petitioner was implicated on the basis of disclosure statement, no recovery had been effected from him, he was involved in one more case under the NDPS Act.

3. The custody certificate dated 06.08.2023 has been filed by learned State counsel. As per the same, the petitioner is behind bars for 1 year, 4 months and 18 days.

4. Learned State counsel opposes the bail on the ground that the petitioner was specifically named by the co-accused Sonu Shah and Rinki Kumari Tirki that she had transferred the various amounts to them for procuring the opium and insofar as her brother and father having expired is concerned, he has verified the said fact to be correct, as stated in the reply dated 07.08.2023 filed by way of affidavit of Rajesh Kumar (PPS), Deputy Superintendent of Police, Police District Khanna, District Ludhiana. He is however unable to controvert the submissions with regard to stage of the case, no recovery was effected from the petitioner and she is not involved in any other case.

5. Heard.

6. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 1 year, 4 months and 18 days; not involved

in any other case; has been implicated based on disclosure statement; no recovery has been effected from her; charges stand framed on 07.07.2022, however, out of 22 witnesses, none has yet been examined, the trial is likely to take a considerable time, thus her further incarceration would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

7. As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to her furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to her not being required in any other case. The petitioner shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioner shall not commit an offence similar to the offence of which, she is an accused, or for commission of which she is suspected of.
- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vi) The petitioner shall not in any manner misuse her liberty.
- (vii) The petitioner shall furnish her address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other

condition, as deemed appropriate while releasing the petitioner.

8. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.
9. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

August 07, 2023
M.Kamra

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No